

**REMARKS**

Claims 1-12 were examined and reported in the Office Action. Claims 1-12 are rejected. Claims 1-12 remain.

Applicants request reconsideration of the application in view of the following remarks.

**I. 35 U.S.C. § 103(a)**

It is asserted in the Office Action that claims 1-12 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over U. S. Patent No. 5,917,646 issued to Sheridon ("Sheridon") in view of U. S. Patent No. 6,704,133 issued to Gates et al ("Gates"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2142

[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. (*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Further, according to MPEP §2143.03, "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (*In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974))." *"All words in a claim must be considered in judging the patentability of that claim against the prior art."* (*In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant's claim 1 contains the limitations of

[a] template type electrophoretic display comprising: a lower electrode formed on an under layer; a lower electrode protection layer formed on the lower electrode; an insulating template formed

on the lower electrode protection layer and having a plurality of holes of smaller size than the wavelength of visible rays region; a dielectric fluid filling the holes and having a color; a plurality of charged particles suspended in the dielectric fluid filling each of the plurality of holes having a color different from the color of the dielectric fluid; and an upper electrode protection layer and an upper electrode formed on the insulating template in sequential order.

It is asserted in the Office Action that Sheridan discloses a template type electrophoretic display, and an insulating template formed on the lower electrode layer and having a plurality of holes of smaller size than the wavelength of visible rays region. The Office Action cites Sheridan using plate 154, fig. 15a, cavities 152, col. 15, lines 34-67, col. 18, lines 23-30 and col. 4, lines 45-52. Sheridan, however, relates to *gyricon* displays, *not electrophoretic* displays. A gyricon display is quite different from an electrophoretic display. It should be noted that a gyricon display has a spherical ball that is an electrical dipole. For example, a gyricon display has a positive (+) charge and a negative (-) charge in the upper and lower portion of the spherical ball, respectively. Gyricon displays have an image made by rotation of the spherical ball upon application of an electric field. Sheridan only discloses an isolated spherical ball in Fig. 15.

Further, Sheridan discloses spherical lens balls, not charged particles. The spherical lens balls of Sheridan have a diameter typically of 10 microns (Sheridan, col. 8, line 62). Since the balls fit in the cavities, the cavities must have a diameter larger than the balls. (See, e.g., Sheridan, col. 14, lines 10-13). Therefore, Sheridan cannot possibly teach, disclose or suggest “a plurality of holes of smaller size than the wavelength of visible rays region.”

Gates discloses electro-optic display overlays. Gates is cited to disclose an upper and lower electrode protection layer. Gates, however, does not teach, disclose or suggest “a plurality of holes of smaller size than the wavelength of visible rays region.”

Therefore, even if Sheridan were to be combined with Gates, the resulting invention would still not teach, disclose or suggest all of Applicant's claim 1 limitations. Since neither Sheridan, Gates, and therefore, nor the combination of the two teach, disclose or suggest Applicant's claim 1 limitations, Applicant's claim 1 is not obvious over Sheridan in view of Gates. Additionally, since claims 2-12 either directly or indirectly depend on claim 1, claims 2-12 are not obvious over Sheridan in view of Gates for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejections for claims 1-12 are respectfully requested.

**CONCLUSION**

In view of the foregoing, it is believed that all claims now pending, namely 1-12, patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.


If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN

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By

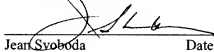


Steven Laut, Reg. No. 47,736

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, California 90025  
(310) 207-3800

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Jean Syoboda

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